United States Court of Appeals

for the Second Circuit

APPELLEE'S BRIEF

74-1320

To be argued by
S. ANDREW SCHAFFER

United States Court of Appeals

FOR THE SECOND CIRCUIT

Docket No. 74-1320

B
P/S

UNITED STATES OF AMERICA,

Appellee,

—v.—

ELIANA HORMAZABAL-TORRES and
MARGARITA HORMAZABAL-TORRES,

Defendants-Appellants.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

BRIEF FOR THE UNITED STATES OF AMERICA

PAUL J. CURRAN,
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BRIEF FOR THE UNITED STATES OF AMERICA

Preliminary Statement

Eliana Hormazabal-Torres and Margarita Hormazabal-Torres appeal from a judgment of conviction entered on March 5, 1974 in the United States District Court for the Southern District of New York.

Indictment 73 Cr. 1141 was filed on December 21, 1973 and contained three counts. Count One charged Ricardo Lawrence, Margarita Hormazabal-Torres and Eliana Hormazabal-Torres with conspiracy to distribute approximately 1894.5 grams of cocaine in violation of Title 21, United States Code, Section 846. Count Two charged all the defendants with possession with intent to distribute 1894.5 grams of cocaine hydrochloride in violation of Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A) and Title 18, United States Code, Section 2. Count

Three charged all of the defendants with traveling in interstate commerce, i.e. commercial aircraft, to promote a business enterprise involving narcotics in violation of Title 18, United States Code, Sections 1952 and 2. Count Three was dismissed at the end of the Government's case.

On January 17, 1974 defendants moved to suppress, *inter alia,* the narcotics seized from defendant Ricardo Lawrence and statements taken from each defendant. After an extensive suppression hearing the motions were denied.

On January 18, 1974 the defendant Lawrence pleaded guilty to Count One.* Trial commenced against Eliana and Margarita Hormazabal-Torres on January 21, 1974 and on January 23, 1974 defendants were found guilty on Counts One and Two. On March 5, 1974 they were sentenced to indefinite terms of imprisonment as Young Adult Offenders to be followed by three years special parole. They are currently serving their sentences.

Statement of facts

A. The Suppression Hearing

The evidence developed at the suppression hearing is discussed *infra* in Point I-B in connection with the question of probable cause.

B. The Government's Case

On December 11, 1973 agents of the New York Drug Enforcement Administration Task Force established surveillance in the vicinity of the President Hotel on 48th Street in Manhattan at about 10:00 P.M. Ricardo Lawrence was seen entering the hotel with the appellants Margarita and Eliana Torres. About an hour later Lawrence

* On May 28, 1974 Lawrence was sentenced to eight years incarceration.

left the hotel with Eliana Torres. They walked to a nearby parking lot, entered a car and drove back to the hotel where Eliana was dropped off. Lawrence drove away and was subsequently arrested in the entranceway of a building at 556 West 180th Street in possession of almost two kilograms of cocaine in a white ladies shoulder bag (Tr. 17-19, 36-37). Thereafter the agents returned to the hotel and arrested Margarita and Eliana Torres (Tr. 19).

The following day each of the three defendants was interviewed by an Assistant United States Attorney. Each of the women admitted smuggling the cocaine into the United States in packages strapped to their bodies, admitted expecting to receive $1500 plus travel expenses from Lawrence for carrying in the packages, but denied knowledge of the contents of the packages (Tr. 47-54).

C. The Defense Case

The defense called Ricardo Lawrence, Christina Kilty, and both appellants as witnesses. Lawrence testified that he and the two sisters had brought the packages of cocaine into the United States (Miami) but that the women did not know that they contained cocaine (Tr. 59-61, 63). He further testified that at the time Eliana Torres had carried the cocaine for him to his car in her white shoulder bag (in New York), she did not know she was carrying cocaine (Tr. 66-68). He denied ever telling the girls that they would each receive $1500 and travel expenses either for smuggling in the cocaine or for any other purpose (Tr. 86-87). His similar post-arrest statement concerning the crime was also introduced into evidence (Tr. 91, DX-A).

Mrs. Kilty, a friend of the appellants from Chile now living in the United States, testified as to the Torres' family background and strict upbringing (Tr. 102-103), their long held desire to come to the United States (Tr. 104-105), their good reputation (Tr. 109), and the different nature

of male-female relationships in Chile as opposed to the United States (Tr. 110-111). On cross-examination she testified that the appellants had good judgment and had held responsible jobs (Tr. 111-113).

Margarita Torres testified that she had been deeply in love with Lawrence (Tr. 115) who asked her a day before her departure in her sister's presence to smuggle a "delicate" package into the United States (Tr. 115-116). She was to receive $1500 for living expenses but the money was not compensation for the smuggling (Tr. 117). On cross-examination she insisted that any contrary statements made after her arrest had been badly interpreted (Tr. 125).

Eliana Torres also testified to her family background and strict upbringing, and to a long standing desire to emigrate to the United States, sharpened by the overthrow of the Allende Government and the resulting climate of violence (Tr. 127-129). She stated that she and her sisters had first learned of and received the "delicate" packages the day before their departure (Tr. 133-34). She thought they might contain gold or diamonds, but trusting Lawrence, determined not to think about it (Tr. 135). Contradicting Lawrence, she testified that while in Miami en route to New York, he had expressed an intention to give her and her sister $1500 each for living expenses (Tr. 137). On cross-examination she admitted stating in her post-arrest interview that the $1500 plus living expenses were to be received from Lawrence in return for the favor to him of smuggling the "delicate" package into the United States (Tr. 157). She admitted that she had obtained only a five day visitor's visa to come to the United States and had given Spain as her next intended destination (Tr. 158). While stating that she had intended after her arrival in the United States to have her visa extended beyond the five day limit and amended to permit her to obtain a job, she also admitted having taken no steps to do so prior to her arrest on the last of the five days (Tr. 162).

ARGUMENT

POINT I

The post arrest statements of both appellants were properly received in evidence.

Appellants claim that certain statements made by them to an Assistant United States Attorney on the day after their arrests should have been suppressed as being tainted fruits of illegal arrests made without probable cause and without arrest warrants. Such claims should be rejected for four separate reasons: (a) the ground presently asserted for the exclusion of the statements was not raised below; (b) the arrests were lawful; (c) the statements were entirely voluntary and were not legally the product of such arrests; and (d) each statement, while containing an admission of carrying certain packages into the United States, denied knowledge of the contents of the packages and thus, in the context of the defense asserted at trial, the admission of the statements, if error, was harmless.

A. Claim Not Raised Below

Prior to trial the defendants moved to suppress the statements on the grounds that they were given during a period of unnecessary delay between arrest and arraignment and alternatively that the defendants had not been apprised of certain of their rights under *Miranda* before they gave the statements. The trial court denied the motions (H. Tr. 195-196) and subsequently entered detailed findings of fact and conclusions of law (Tr. 72-78).

The defendants also moved to suppress a weighing scale found in their hotel room at the time of their arrest on the grounds that the search for the scale exceeded the permissible limits of a search incident to arrest. The motion

was granted (H. Tr. 210-11). An alternative ground for suppressing the scale, the lack of probable cause to arrest, was rejected (Tr. 78-84).

The defendants did not contend below, as they do now, that the statements made the day after arrest to an Assistant United States Attorney were the product of an unlawful arrest. Thus the trial court had no opportunity to rule on the question of whether assuming that there had been a lack of probable cause, the statements were free of any taint created by the arrests. Thus the claim should not be permitted on appeal. *United States* v. *Indiviglio,* 352 F.2d 276, 278-80 (2d Cir. 1965) (*en banc*), *cert. denied,* 383 U.S. 907 (1966).

B. The Arrests Were Lawful

There was ample probable cause to support the warrantless arrests of Eliana and Margarita Torres.

During the first week of November, 1973 an informant who had previously supplied reliable intelligence information (H. Tr. 26) advised Agent Lehan that Ricardo Lawrence was going to deliver a large quantity of cocaine to the New York area. Lehan then corroborated the informant's assertion that Lawrence had had a New York address and telephone number (H. Tr. 27-28).

On December 7, 1973 the informant advised Lehan that Lawrence, whom he described, had arrived in New York and would meet a man that evening at 7:00 p.m. in front of the President Hotel. The meeting took place as predicted by the informant and Lehan confirmed the description of Lawrence. Later that night Lehan called the informant who told him that Lawrence had over two kilos of cocaine, that he had been assisted in smuggling the cocaine into the United States by two women, and that there would be a delivery of the cocaine to a building at 556 West 180th Street on December 11 at 11:00 p.m. (H. Tr. 6-7).

On December 11, 1973 narcotics agents began surveillance across the street from the President Hotel where the informant had stated that Lawrence was residing (H. Tr. 31). At about 10:00 p.m. Lawrence was seen entering the hotel with two women. At about 11:00 p.m. Lawrence was observed with one of the women who was carrying a large white shoulder bag. They walked one block to a parking lot and entered a car which Lawrence drove back to the hotel. His female companion left the car without the large white bag and Lawrence drove off. Under continous surveillance, he drove to the precise address furnished four days earlier by the informant, and while carrying the white shoulder bag into the building, was placed under arrest (H. Tr. 7-10, 48-49, 108-109). A search of the bag disclosed nine packages of a white powder later determined to be cocaine.*

At this point there was clearly probable cause to arrest the female who had only shortly before been seen in actual possession of the white shoulder bag now found to contain a large quantity of apparent narcotics. In addition, there may well have been probable cause to arrest the second female who had been seen with Lawrence and the first female earlier that evening shortly before the attempted delivery of the cocaine had begun. The informant had told Lehan that Lawrence had been assisted in importing the cocaine by two women. Except for any direct observation of the actual role played by the second woman, every single precise detail furnished by the informant up to that point, including a role by the first woman as a carrier of narcotics, had been corroborated and a large seizure of narcotics made. *United States ex rel. Gary* v. *Follette*, 418 F.2d 609, 611 (2d Cir. 1969), *cert. denied*, 397 U.S. 1015 (1979); *United States* v. *Malo*, 417 F.2d 1242, 1244-5 (2d Cir. 1969), *cert. denied*, 397 U.S. 995 (1970); *United States* v. *Cappabianca*, 398 F.2d 356, 358-59 (2d Cir.), *cert. denied*, 393 U.S. 935 (1968).

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* Appellant Eliana Torres specifically concedes that there was probable cause to arrest Lawrence (Brief p. 21) and appellant Margarita Torres does not contest the point.

The agents returned to the President Hotel and knocked on the door of the room whose number had been furnished by the informant as Lawrence's (H. Tr. 31). A conversation took place in Spanish between a female occupant (Eliana Torres) and an agent who announced his identity as a police officer (Tr. 38). Eliana then opened the door and admitted the agents (H. Tr. 11, 50, 65, 73, 142, 143, 203).* One of them recognized her as the woman who had been carrying the white shoulder bag (H. Tr. 50), and she was placed under arrest.

Even assuming that an insufficiency in probable cause had previously existed with respect to Margarita Torres, it was now overcome by her presence in Lawrence's hotel room, the presumed base of operations, along with her sister, a previously observed participant in the events leading up to Lawrence's arrest and the seizure of the cocaine. Accordingly, she too was properly arrested. *United States ex rel. Gary* v. *Follette, supra,* at 611; *United States* v. *McCarthy,* 473 F.2d 300, 305-06 (2d Cir. 1972); *United States* v. *Soyka,* 394 F.2d 443, 451 (2d Cir. 1968) (*en banc*), *cert. denied,* 393 U.S. 1095 (1969).

That the arrests were made without warrants did not render them improper. Lawrence had been arrested late at night in possession of a large quantity of cocaine which an informant of positively confirmed reliability and credibility had told the agents had been imported from Chile with the assistance of two women, who could thus be presumed to possess passports. The dangers of flight and the possible destruction or concealment of any undelivered cocaine were present. Thus the agents acted sensibly in trying to immediately locate Lawrence's confederates. They succeeded in locating them and used no force in gaining

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* Appellant Eliana Torres' assertion that the entry into the hotel room was "forced" (Brief p. 23) is unsupported by the record.

entrance to the hotel room to make the subsequent arrests. Under these circumstances the failure to obtain arrest warrants was not improper. *United States* v. *Mapp*, 476 F.2d 67, 73-74 (2d Cir. 1973); *United States* v. *Manning*, 448 F.2d 992, 1001-02 (2d Cir.) (*en banc*), *cert. denied*, 404 U.S. 995 (1971); *United States ex rel. Cardaio* v. *Casscles*, 446 F.2d 632, 634-37 (2d Cir. 1971).

Finally, even assuming once again that Margarita Torres (or indeed, Eliana Torres as well) had initially been arrested without probable cause, it is clear that probable cause existed to arrest them prior to the time they made the statements which they now claim should have been suppressed. The morning after the arrests, the three defendants were taken to the United States Courthouse and sequentially interviewed by an Assistant United States Attorney. Lawrence, the first to be interviewed (H. Tr. 13, 165), while claiming that the two women did not know that the packages contained cocaine, admitted that each of the women had transported the cocaine into the United States in packages strapped to their bodies and each was to receive $1500 plus travel expenses (Tr. 86-87, 91; DX-A). This wholly voluntary statement clearly furnished probable cause for the arrest of both sisters and occurred prior to any statements made by them. Thereafter, Eliana Torres gave a similar statement which denied knowledge of the contents of the packages by both sisters but admitted that they had brought them into the country (H. Tr. 15, 168; Tr. 50-54). Once again, this statement provided probable cause for the arrest of Margarita Torres who only thereafter gave a similar statement of her own (H. Tr. 15, 169; Tr. 47-50). Thus probable cause was clearly established prior to the development of the evidence now claimed to have been the unlawful fruit of an unlawful arrest. *Bowlen* v. *Scafati*, 395 F.2d 692, 693 (1st Cir. 1968) (Aldrich, *Ch.J.*). *United States* v. *Tasby*, 451 F.2d 394, 398 (8th Cir. 1971), *cert. denied*, 406 U.S. 922 (1972).

C. Even If the Arrests Were Without Probable Cause the Voluntary Statements Were Admissible

Relying on *Wong Sun* v. *United States*, 371 U.S. 471 (1963), appellants contend that if their arrests were unlawful, their statements are automatically fruits of a poisonous tree and must be excluded. This position is erroneous. *Wong Sun* does not require the exclusion of evidence which is sufficiently removed from the primary taint of an illegal arrest. 371 U.S. 484-87. *United States* v. *Garcilaso de la Vega*, 489 F.2d 761, 763 n. 3 (2d Cir. 1974); *United States* v. *Friedland*, 441 F.2d 855, 860 (2d Cir.), *cert. denied*, 404 U.S. 867 (1971).

In the present case, the agents did not intentionally and illegally arrest the two sisters to obtain evidence to which they could not otherwise secure access. Compare, *United States* v. *Edmons*, 432 F.2d 577, 583 (2d Cir. 1970). If they erred at all at the time of arrest, they did so on a question involving the "shadowy (line) that separates probable cause from its lack." *Id.* Nor was the arrest "exploited" to develop the evidence now claimed to have been erroneously admitted. In fact, the statements were not given to the agents at all. They were voluntarily given the afternoon following the late night arrests to an Assistant United States Attorney who the trial court found had fully advised them of their rights (Tr. 72-78).

The Government contends that such voluntary statements given after full compliance with the requirements of *Miranda* are admissible even if the initial (non-pretextual) arrest of the defendant is without probable cause. Almost every Circuit to have considered the issue has adopted this position. *United States* v. *Lepinski*, 460 F.2d 234, 238 (10th Cir. 1972); *Edwards* v. *Swenson*, 454 F.2d 1106, 1111 (8th Cir.), *cert. denied*, 406 U.S. 909 (1972); *United States* v. *Lipscomb*, 435 F.2d 795, 801 (5th Cir. 1970), *cert. denied*,

401 U.S. 980 (1971), *reh. denied*, 402 U.S. 966 (1971); *Thompson* v. *Warden*, 413 F.2d 454, 455 (4th Cir. 1969), *cert. denied*, 397 U.S. 950 (1970); *Bowlen* v. *Scafati*, 395 F.2d 692, 693 (1st Cir. 1968); *Leonard* v. *United States*, 391 F.2d 537, 538 (9th Cir. 1968). Accord, *United States* v. *McCarthy*, 249 F. Supp. 199 (E.D.N.Y. 1966); *United States* v. *Reese*, 351 F. Supp. 719, 721 (W.D. Pa. 1972); *United States* v. *Tuggles*, 334 F. Supp. 383, 387-88 (E.D. Pa. 1971); Contra, *United States* v. *Burhannon*, 388 F.2d 961, 964 (7th Cir. 1968); *United States* v. *Gatlin*, 326 F.2d 666 672 (D.C. Cir. 1963).

Where law enforcement officers acting in good faith make errors in judgment on close questions of law and arrest someone improperly, but thereafter comply with the requirements of *Miranda* and obtain voluntary statements from a defendant, no proper deterrent function would be served by the exclusion of such evidence.* Thus the admissibility of the statements of Eliana and Margarita Torres should be upheld regardless of whether probable cause existed for their arrests prior to the obtaining of the challenged statements.

D. Any Error in the Admission of the Statements Was Harmless

Assuming that the statements were improperly admitted, the convictions should nevertheless be affirmed. The crux of appellants' defense at trial was the absence of knowledge

* Indeed, with the advent of the *Miranda* decision in 1966, the trend in the case law has clearly been to consider the voluntariness of the statements as an issue apart from the legality of the arrest. For example, prior to *Miranda*, the Fifth Circuit analyzed a particular confession problem primarily in terms of the legality of the antecedent arrest rather than the independent voluntariness of the confession. *Collins* v. *Beto*, 348 F.2d 823, 826-28 (5th Cir. 1965). Only five years later, the same court assumed without the slightest hesitancy that even if an arrest had been illegal, an otherwise voluntary statement would be admissible. *United States* v. *Lipscomb*, *supra*.

that the packages which they smuggled into the United States contained cocaine. The post-arrest statements were entirely consistent with that defense. The incriminating aspects of the statements were appellants' admissions of having served as couriers and their expectations of receiving payments of over $1500 from Lawrence. That evidence, however, was available to the Government through the testimony of Lawrence and his own post-arrest statement. While the Government did not in fact call Lawrence, the defense did so and put into evidence Lawrence's entire post-arrest statement (DX-A; Tr. 91). That statement was precisely as incriminating as the women's own statements but also was corroborative of their claim of lack of knowledge. Under these circumstances the admission of the women's statements, if error, was harmless. *Milton* v. *Wainwright,* 407 U.S. 371, 372-73 (1972); *United States ex rel. Haynes* v. *McKendrick,* 481 F.2d 152, 161 n. 13 (2d Cir. 1973); *United States* v. *James,* 473 F.2d 115, 117-18 (D.C. Cir. 1972) (the tainted evidence did "not in any way relate to the crux of appellant's defense."); *United States* v. *Savage,* 482 F.2d 1371, 1373 (9th Cir. 1973).

POINT II

The prosecutor's summation was not improper or prejudicial.

Appellant Eliana Torres contends that the prosecutor's summation was so improper that it resulted in a denial of due process. Specifically she contends that the prosecutor implied that the defendants had previously trafficked in narcotics and that he also inserted his personal credibility into the case. These contentions are without merit.

The first simply misreads the summation. Far from implying that the defendants had been involved in prior narcotics transactions, the language quoted in her brief (p.

25) referred to Eliana Torres being caught in a damaging admission during the course of her testimony. The specific contradiction referred to by the prosecutor at that point was between the defendants' post-arrest admissions that their anticipated $1500 payments from Lawrence were for smuggling the packages and the defense posture at trial which denied such a relationship between the importation and the payments (Tr. 117, 137). This was not the first time that one of the defendants had been caught in glaring inconsistencies between her pretrial statement and sworn defense testimony at trial. For example Lawrence testified that he never told either defendant about the $1500 at all and only thought of the idea of paying them this large sum of money after they all had arrived in New York (Tr. 86-87). The pretrial statements of both defendants suggested that the money had been discussed prior to the departure from Chile (Tr. 48, 53). The trial testimony of Eliana Torres was that the money had been mentioned by Lawrence after they had arrived in Miami (Tr. 137).

Finally, if the improper implication now assigned to the cited passage of the Government's summation is so obvious and unfair, why wasn't it noticed and objected to when spoken?

The second contention with respect to the prosecutor's summation is equally without substance. The question of inserting personal credibility into a case cannot be decided by counting the number of times that the first person singular pronoun is employed. Nor is a rhetorical question or device the equivalent of an interjection of personal belief.

The prosecutor utilized the phrase "I submit to you" (187, 188, 190, 194, 195, 196) as a preface or rhetorical opening to ask the jury to consider whether, applying their common sense to the facts, the defense of lack of knowledge made sense (190, 192, 194, 195, 196). He did not vouch for the credibility of his witnesses or say that they were telling the truth or that the defendants had lied.

The prosecutor did refer, and on the basis of the record correctly so, to the fact that the defense theme of political persecution in Chile and a better life in America was a ruse. Both women has passports indicating an intention to leave the United States for Spain after five days thus negating their sympahetic story of flight from Chile to America for political reasons. *United States* v. *Schartner,* 426 F.2d 470, 477 (3rd Cir. 1970).

No portion of the summation even remotely approaches the types of language or argument which this Court has found inflammatory in the past. See e.g. *United States* v. *Hestie,* 439 F.2d 131 (2d Cir. 1971); *United States* v. *Leeds,* 457 F.2d 857, 860-1 (2d Cir. 1972). When defense counsel advanced his present arguments below at the conclusion of the Government's summation, the trial Court which had heard the summation dismissed them out of hand.

> "I think what [the prosecutor] said was *clearly* within the realm of a fair argument." (emphasis supplied) (Tr. 201).

POINT III

Venue was proper in the Southern District of New York.

Margarita Torres asserts that because she allegedly turned the cocaine over to Ricardo Lawrence in Miami that "ended her part in the transaction and therefore venue (as to her) was improper in New York where the narcotics were delivered". The argument is frivolous. Viewing the evidence most favorably to the Government, Margarita Torres, her sister, and Ricardo Lawrence knowingly smuggled two kilograms of cocaine into the United States for eventual distribution in the New York City area. Absent any affirmative evidence of withdrawal, Margarita's participation in the conspiracy must be deemed to have con-

tinued during the New York phase of the venture, during which Ricardo Lawrence attempted to distribute these very narcotics. *United States* v. *Borelli*, 336 F.2d 376 (2d Cir. 1964), *cert. denied, sub nom, Mogavero* v. *United States*, 379 U.S. 960 (1965).

On either a conspiracy theory or an aiding and abetting theory, venue was proper in the Southern District of New York and there was no error in the Court's refusal to charge that Margarita Torres herself had to have committed some overt act in this district. "Venue is properly laid in the whole area through which force propelled by an offender operates." *United States* v. *Candella*, 487 F.2d 1223, 1227-28 (2d Cir.), *cert. denied*, — U.S. — (March 19, 1974); *United States* v. *Nathan*, 476 F.2d 456, 461-62 (2d Cir. 1973).

POINT IV

Defendant Margarita Torres was properly charged as a co-conspirator.

Margarita Torres asserts in Point IV of her brief that she was not seen to perform any acts or heard to make any declarations during the course of the conspiracy and thus was improperly charged as a co-conspirator. The argument is utterly without merit. Margarita Torres participated as a courier in a substantial importation and distribution of cocaine. The evidence of her participation came from circumstantial observations of narcotics agents, as well as from her own mouth and that of her co-defendants in post-arrest statements. We are aware of no authority which requires, as a predicate to a conspiracy indictment, that each co-conspirator be implicated by direct, non-hearsay evidence generated during the course of the conspiracy. Such a rule would bar conspiracy prosecutions of defendants who upon interrogation fully confess to their conspiratorial acts and whose confessions are corroborated by the confession of a co-defendant. The absurdity of such a result is self-evident.

CONCLUSION

The judgments of conviction should be affirmed.

Respectfully submitted,

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AFFIDAVIT OF MAILING

State of New York)
County of New York) ss

S. ANDREW SCHAFFER being duly sworn, deposes and says that he is employed in the Office of the United States Attorney for the Southern District of New York.

That on the 3rd day of June 1974 he served ~~a copy~~ two copies of the within ~~true~~ brief

by placing the same in a properly postpaid franked envelopes addressed:

① Joseph D. Stone, Esq
277 Broadway
New York, N.Y. 10007

② Alfred Lawrence Toombs, Esq
335 Broadway
New York, N.Y. 10013

And deponent further says he sealed the said envelope and placed the same in the mail chute drop for mailing in the United States Courthouse, Foley Square, Borough of Manhattan, City of New York.

S. Andrew Schaffer

Sworn to before me this
3 day of JUNE 1974

Jeanette Ann Grayeb

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Qualified in Kings County
Certificate filed in New York County
Commission Expires March 30, 1975